



LIMITED AGRICULTURE PERMIT (LAP) (CITY ONLY) PROCESS OVERVIEW

Background

On February 16, 2009, the Durham City Council adopted a text amendment to the Unified Development Ordinance (UDO) that allows citizens throughout the City to keep a maximum of 10 female chickens (hens only, no roosters) for personal use with a permit and subject to certain standards. Prior to keeping hens, residents are required to obtain a Limited Agriculture Permit from the City-County Planning Department and have the pen and coop approved by a Planning Site Compliance Inspector. County residents do not need a Limited Agriculture Permit to keep hens, but may need a building permit for a structure.

Permit Requirements

The permit requirement allows on-site enforcement and ensures that chicken owners are aware of the applicable standards. As adopted by Council, the requirement includes notice to neighbors, and an administrative review if any neighbor objects. The permit fee is set by City Council.

Prior to Application Submittal

An applicant desiring to keep hens should first contact the Planning Department Customer Service Center, in Suite G301 in City Hall, 101 City Hall Plaza; or phone at (919) 560-4137. The Planning staff will verify that keeping hens is allowed on the property in question, explain the process, and provide the necessary forms and copies of the relevant Ordinance sections. The information and forms are also available by request via email to Planning@DurhamNC.gov or at <http://durhamnc.gov/ich/cb/ccpd/Pages/Applications.aspx>. Staff will also provide a current listing of the adjacent property owner names and addresses for the required "Notice and Consent" form mailing. The listing is only valid for up to 90 days. After that time, the applicant must obtain a current list before proceeding with the application.

Next Steps for Applicants

1. The applicant should draft a cover letter explaining what they are proposing; and send out the letter with the required "Notice and Consent" forms, with copies of the applicable Ordinance sections attached, to the all adjacent property owners of record via certified mail with return receipt requested (green cards). Please note:
 - a. If two or more owners are listed on the Durham County tax records for the adjacent property, one letter may be sent; but each owner must sign, print their name, and the date on the consent form(s). If tax records are not up-to-date, the applicant should request that the adjacent property owner provide a brief, written statement (with a signature and date) about the change of ownership, death, or divorce, etc., with dates that the change(s) occurred.
 - b. If a company is listed as the property owner, an officer of the company must sign and state their position, and that they are authorized to sign for the company.
 - c. Send the same forms to any adjacent non-owner residents, lessees, or tenants by first class mail.
 - d. Request that all signed forms from the adjacent property owners, residents, lessees, and/or tenants be returned to the applicant.

2. Complete the mailing list form showing which owners/lessees/tenants were sent the “Notice and Consent” form; sign and date the certification.
3. Create a plot plan showing how the pen and coop will meet Ordinance requirements. This is explained in the “Plot Plan Requirements” handout.
4. Collect the “Notice and Consent” forms returned within 30 days after the mailing date and check to make sure that all owners have signed.
 - a. If all the forms are returned earlier than 30 days after the mailing date, the application packet can be submitted early.
 - b. Otherwise, the applicant must wait 30 days after the mailing date to submit the forms that have been returned.
 - c. The applicant must include all returned forms and all return receipts or other proof of mailing with the Application, and certify that the others were not returned to them.
5. Complete the Application with a notarized signature of each owner of the property where hens are proposed to be kept. Include signature of all owners whose names are on the deed; or provide proof of change of ownership, death or divorce certificate, etc., if the tax records are not up-to-date.
6. If the applicant is not the property owner, the Application form must be signed by all adult residents of the property in addition to all property owner(s) of record. Applicants that are not owners are required to have their signature(s) notarized.
7. Initial the appropriate box on the front of the Application form that certifies whether or not the applicant is the property owner.

Submittal of Application

At the end of the 30-day mailing period, and not more than 90 days after obtaining the list of adjacent property owner from the Planning Department, the applicant can submit a complete Application packet which includes:

- ✓ The completed Application with the required notarization of each property owner’s signature
- ✓ A completed, signed, and dated mailing list form*
- ✓ Copies of the cover letters sent to the adjacent property owners
- ✓ Copies of the certified mail receipts and returned green cards, or digital equivalent from the Post Office website, for each letter as proof of mailing
- ✓ Original, signed, “Notice and Consent” forms received within 30 days of mailing; with signatures of all adjacent property owners of record as listed in the Durham County tax records, or with documentation of change of ownership
- ✓ A plot plan showing how the coop and pen will meet the requirements of UDO paragraph 5.4.12B.7, Construction and Design**
- ✓ A check payable to the City of Durham for \$26.00 to cover the application processing

* As stated above, applicants should obtain a current list of adjacent property owners from the Planning Department Customer Service Center

** See “Plot Plan Requirements” on the Limited Agricultural Permit web page or contact the Planning Department Customer Service Center for more information on what is required for the plot plan

Review and Permit Issuance if All Adjacent Property Owners Consent

Planning Customer Service staff will review the application and all documentation for compliance with Ordinance requirements. Once it has been confirmed that all adjacent property owners have either given consent or failed to respond within 30 days of mailing, and that the application is in conformance with the Ordinance, a permit will be issued.

Administrative Review if Adjacent Property Owner Denies Consent

The application must go through Administrative Review if any adjacent property owner denies consent. Non-consent responses from tenants do not require an Administrative Review if the property owners give consent or fail to return a consent letter. The Planning Department notifies the applicant and any non-consenting adjacent property owner of the date, time, and location of the Administrative Review of the application. Notice is by first class mail, sent at least two weeks in advance of the Review; and usually occurs on a weekday between the hours of 8:00 a.m. and 5:00 p.m. The notice requests that each person attend in person, or by telephone, or by submitting a written statement of concerns. If any non-consenting adjacent property owner fails to appear as requested, he or she is deemed to have consented. If all non-consenting property owners fail to appear, the Administrative Review will not be conducted.

The Planning Director or designee conducts the Administrative Review and determines whether issuing a permit would:

- 1) Result in an Ordinance violation;
- 2) Otherwise create a nuisance or detriment to public health or safety; or
- 3) Cause significant hardship or injury due to site conditions or personal considerations.

Following the Administrative Review, the Planning Director or designee issues a written determination and provides a copy to anyone who requests it. Appeal of a decision of the Planning Director or designee is to the Board of Adjustment.

Required Inspection after Permit Issuance

Within 180 days of issuance of a permit, and after the coop and pen are constructed, the applicant must call Planning Site Compliance at 919-560-4137 to schedule an inspection prior to putting chickens in the coop. Planning Site Compliance will inspect the site for conformance with Ordinance requirements for setbacks, minimum sizes for the coop and pen, etc. If it is not possible for the Site Compliance Inspector to verify that the coop and pen meet the required setbacks, a professional survey will be required prior to final signoff on the improvements. *Please note that if a Planning Site Compliance inspection is not requested within 180 days of issuance of the permit, the applicant must start the process over from the beginning.*